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Attorneys for Defendants  
ALIANTE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**EXIGEN, LTD.**, a Bermuda Corporation,  
Plaintiff,

v.

**ALIANTE TELECOM, INC.**, a Canadian  
corporation; **ALIANTE, INC.**, a Canadian  
corporation; **DOES 1-10**, inclusive,  
Defendants.

Case No. 04-1203 TEH

**STIPULATED PROTECTIVE ORDER**

1           1.     PURPOSES AND LIMITATIONS

2           Disclosure and discovery activity in this action are likely to involve production of  
 3 confidential, proprietary, or private information for which special protection from public  
 4 disclosure and from use for any purpose other than prosecuting this litigation would be warranted.  
 5 Accordingly, Exigen, Ltd. and Aliant Inc. (each individually a “party” or collectively the  
 6 “parties” as further defined in Section 2.1, below) hereby stipulate to and petition the Court to  
 7 enter the following Stipulated Protective Order. The parties acknowledge that this Stipulated  
 8 Protective Order does not confer blanket protections on all disclosures or responses to discovery  
 9 and that the protection it affords extends only to the limited information or items that are entitled  
 10 under the applicable legal principles to treatment as confidential. The parties further  
 11 acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates no  
 12 entitlement to file confidential information under seal; Civil Local Rule 79-5 sets forth the  
 13 procedures that must be followed and reflects the standards that will be applied when a party  
 14 seeks permission from the court to file material under seal.

15           2.     DEFINITIONS

16           2.1     Party: any party to this action as defined above, including all of its  
 17 officers, directors, employees, consultants, retained experts, and outside counsel (and their  
 18 support staff).

19           2.2     Disclosure or Discovery Material: all items or information, regardless of  
 20 the medium or manner generated, stored, or maintained (including, among other things,  
 21 testimony, transcripts, written responses to discovery or tangible things) that are produced or  
 22 generated in disclosures or responses to discovery in this matter.

23           2.3     “Confidential” Information or Items: information (regardless of how  
 24 generated, stored or maintained) or tangible things that qualify for protection under standards  
 25 developed under F.R.Civ.P. 26(c). Where a document or response consists of more than one  
 26 page, the first page and each page on which confidential information appears shall be so  
 27 designated.  
 28

2.4 “Highly Confidential - Attorneys’ Eyes Only” Information or Items:  
extremely sensitive “Confidential Information or Items” whose disclosure to another Party or  
nonparty would create a substantial risk of serious injury that could not be avoided by less  
restrictive means.

2.5 Receiving Party: a Party that receives Disclosure or Discovery Material  
from a Producing Party.

2.6 Producing Party: a Party or non-party that produces Disclosure or  
Discovery Material in this action.

2.7 Designating Party: a Party or non-party that designates information or  
items in disclosures or in responses to discovery as “Confidential” or “Highly Confidential  
Attorneys’ Eyes Only.”

2.8 Protected Material: any Disclosure or Discovery Material that is  
designated as “Confidential” or as “Highly Confidential- Attorneys’ Eyes Only.”

2.9 Outside Counsel: attorneys who are not employees of a Party but who are  
retained to represent or advise a Party in this action, including support staff of such attorneys as  
reasonably necessary to prosecute or defend the action.

2.10 House Counsel: attorneys who are employees of a Party.

2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well  
as their support staffs).

2.12 Expert: a person with specialized knowledge or experience in a matter  
pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert  
witness or as a consultant in this action and who is not a past or a current employee of a Party or  
of a competitor of a Party and who, at the time of retention, is not anticipated to become an  
employee of a Party or a competitor of a Party. This definition includes a professional jury or  
trial consultant retained in connection with this litigation.

2.13 Professional Vendors: persons or entities that provide litigation support  
services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations;

1 organizing, storing, retrieving data in any form or medium; etc.) and their employees and  
2 subcontractors.

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only Protected Material  
5 (as defined above), but also any information copied or extracted therefrom, as well as all copies,  
6 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by  
7 parties or counsel to or in court or in other settings that might reveal Protected Material.

8 4. DURATION

9 Even after the termination of this litigation including all applicable appeals hereof (see  
10 Section 11, below (FINAL DISPOSITION)), the confidentiality obligations imposed by this  
11 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
12 otherwise directs.

13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Exercise of Restraint and Care in Designating Material for Protection.

15 Each Party or non-party that designates information or items for protection under this Order must  
16 take care to limit any such designation to specific material that qualifies under the appropriate  
17 standards. A Designating Party must take care to designate for protection only those parts of  
18 material, documents, items, or oral or written communications that qualify - so that other portions  
19 of the material, documents, items, or communications for which protection is not warranted are  
20 not swept unjustifiably within the ambit of this Order.

21 Mass, indiscriminate, or routine designations are prohibited. Designations that are  
22 shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to  
23 unnecessarily encumber or retard the case development process, or to impose unnecessary  
24 expenses and burdens on other parties), expose the Designating Party to sanctions.

25 If it comes to a Party's or a non-party's attention that information or items that it  
26 designated for protection do not qualify for protection at all, or do not qualify for the level of  
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1 protection initially asserted, that Party or non-party must promptly notify all other parties that it is  
2 withdrawing the mistaken designation.

3           5.2    Manner and Timing of Designations. Except as otherwise provided in this  
4 Order (see, e.g., second paragraph of Section 5.2(a), below), or as otherwise stipulated or ordered,  
5 material that qualifies for protection under this Order must be clearly so designated before the  
6 material is disclosed or produced.

7           Designation in conformity with this Order requires:

8           (a)    for information in documentary form (apart from transcripts of  
9 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend  
10 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY” at the top  
11 of each page that contains protected material. If only a portion or portions of the material on a  
12 page qualifies for protection, the Producing Party also must clearly identify the protected  
13 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each  
14 portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY  
15 CONFIDENTIAL - ATTORNEYS’ EYES ONLY”).

16           A Party or non-party that makes original documents or materials available  
17 for inspection need not designate them for protection until after the inspecting Party has indicated  
18 which material it would like copied and produced. During the inspection and before the  
19 designation, all of the material made available for inspection shall be deemed “HIGHLY  
20 CONFIDENTIAL ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the  
21 documents it wants copied and produced, the Producing Party must determine which documents,  
22 or portions thereof, qualify for protection under this Order, then, before producing the specified  
23 documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or  
24 “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY”) at the top of each page that  
25 contains Protected Material. If only a portion or portions of the material on a page qualifies for  
26 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making  
27 appropriate markings in the margins) and must specify, for each portion, the level of protection  
28

1 being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’  
 2 EYES ONLY”).

3 (b) for testimony given in deposition or in other pretrial or trial  
 4 proceedings, that the Party or non-party offering or sponsoring the testimony identify on the  
 5 record, before the close of the deposition, hearing, or other proceeding, all protected testimony,  
 6 and further specify any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL -  
 7 ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of  
 8 testimony that is entitled to protection, and when it appears that substantial portions of the  
 9 testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the  
 10 testimony may invoke on the record (before the deposition or proceeding is concluded) a right to  
 11 have up to 30 days to identify the specific portions of the testimony as to which protection is  
 12 sought and to specify the level of protection being asserted (“CONFIDENTIAL” or “HIGHLY  
 13 CONFIDENTIAL - ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that  
 14 are appropriately designated for protection within the 30 days shall be covered by the provisions  
 15 of this Stipulated Protective Order.

16 Transcript pages containing Protected Material must be separately bound  
 17 by the court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL”  
 18 or “HIGHLY CONFIDENTIAL -ATTORNEYS’ EYES ONLY,” as instructed by the Party or  
 19 nonparty offering or sponsoring the witness or presenting the testimony.

20 (c) for information produced in some form other than documentary,  
 21 and for any other tangible items, that the Producing Party affix in a prominent place on the  
 22 exterior of the container or containers in which the information or item is stored the legend  
 23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -ATTORNEYS’ EYES ONLY.” If only  
 24 portions of the information or item warrant protection, the Producing Party, to the extent  
 25 practicable, shall identify the protected portions, specifying whether they qualify as  
 26 “Confidential” or as “Highly Confidential - Attorneys’ Eyes Only.”

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
 28 failure to designate qualified information or items as “Confidential” or “Highly Confidential -

Attorneys' Eyes Only" does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. If material is appropriately designated as "Confidential" or "Highly Confidential- Attorneys' Eyes Only" after the material was initially produced, the Receiving Party, on timely notification of the designation, must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

5.4 Designations by Non-Producing Parties. In the event that a Party or non-party produces material that it does not designate as "Confidential" or "Highly Confidential- Attorneys' Eyes Only", and a Receiving Party or non-party believes the material is entitled to such designation(s) under the terms of this Order, a Receiving Party or non-party may designate such material within 30 days of the production of the material in question. Such designation may be made by a written identification of the materials to be designated and the appropriate level of such designation, to be transmitted to the Producing Party and any other parties known to have received the production in question.

5.5 Nondisclosure of Produced Materials for Initial Period. In order to enable any Parties or non-parties to exercise any appropriate rights under Paragraph 5.4, all such materials produced in this action shall be treated as "Highly Confidential-Attorneys' Eyes Only" for a period of 30 days following production, after which period such materials shall be treated according to the designation (or lack thereof) made by any Designating Party.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party's confidentiality designation must do so in good faith and must begin the process by conferring directly (in voice to voice dialogue; other forms of communication are not

1 sufficient) with counsel for the Designating Party. In conferring, the challenging Party must  
 2 explain the basis for its belief that the confidentiality designation was not proper and must give  
 3 the Designating Party an opportunity to review the designated material, to reconsider the  
 4 circumstances, and, if no change in designation is offered, to explain the basis for the chosen  
 5 designation. A challenging Party may proceed to the next stage of the challenge process only if it  
 6 has engaged in this meet and confer process first.

7           6.3    Judicial Intervention. A Party that elects to press a challenge to a  
 8 confidentiality designation after considering the justification offered by the Designating Party  
 9 may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local  
 10 Rule 79-5, if applicable) that identifies the challenged material and sets forth in detail the basis  
 11 for the challenge. Each such motion must be accompanied by a competent declaration that  
 12 affirms that the movant has complied with the meet and confer requirements imposed in the  
 13 preceding paragraph and that sets forth with specificity the justification for the confidentiality  
 14 designation that was given by the Designating Party in the meet and confer dialogue.

15           The burden of persuasion in any such challenge proceeding shall be on the  
 16 Designating Party. Until the court rules on the challenge, all parties shall continue to afford the  
 17 material in question the level of protection to which it is entitled under the Producing Party's  
 18 designation.

## 19           7.    ACCESS TO AND USE OF PROTECTED MATERIAL

20           7.1    Basic Principles. A Receiving Party may use Protected Material that is  
 21 disclosed or produced by another Party or by a non-party in connection with this case only for  
 22 prosecuting, defending, or attempting to settle this litigation (including, to the extent that any part  
 23 of the instant dispute proceeds in Canada, in any Canadian proceedings between the parties  
 24 concerning the subject matter hereof), including any applicable appeals hereof. Such Protected  
 25 Material may be disclosed only to the categories of persons and under the conditions described in  
 26 this Order. When the litigation has been terminated, a Receiving Party must comply with the  
 27 provisions of Section 11, below (FINAL DISPOSITION).  
 28

1 Protected Material must be stored and maintained by a Receiving Party at a  
2 location and in a secure manner that ensures that access is limited to the persons authorized under  
3 this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
5 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may  
6 disclose any information or item designated CONFIDENTIAL only to:

7 (a) the Receiving Party's Outside Counsel of record in this action, as  
8 well as employees of said Counsel to whom it is reasonably necessary to disclose the information  
9 for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is  
10 attached hereto as Exhibit A;

11 (b) the officers, directors, and employees (including House Counsel) of  
12 the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have  
13 signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

14 (c) experts (as defined in this Order) of the Receiving Party to whom  
15 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be  
16 Bound by Protective Order" (Exhibit A);

17 (d) the Court and its personnel;

18 (e) court reporters, their staffs, and professional vendors to whom  
19 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be  
20 Bound by Protective Order" (Exhibit A);

21 (f) during their depositions, witnesses in the action to whom disclosure  
22 is reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order"  
23 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal  
24 Protected Material must be separately bound by the court reporter and may not be disclosed to  
25 anyone except as permitted under this Stipulated Protective Order.

26 (g) the author of the document or the original source of the  
27 information, including persons to whom the text of a document indicates that document was  
28 transmitted.

1                   7.3     Disclosure of “HIGHLY CONFIDENTIAL-ATTORNEYS’ EYES  
 2     ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by  
 3     the Designating Party, a Receiving Party may disclose any information or item designated  
 4     “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY” only to:

5                   (a)     the Receiving Party’s Outside Counsel of record in this action, as  
 6     well as employees of said Counsel to whom it is reasonably necessary to disclose the information  
 7     for this litigation and who have signed the “Agreement to Be Bound by Protective Order” that is  
 8     attached hereto as Exhibit A;

9                   (b)     Kimberlee Bogen (in-house counsel for Exigen) and Paul  
 10     Fitzpatrick (in-house counsel for Aliant Inc.);

11                  (c)     the Court and its personnel;

12                  (d)     court reporters, their staffs, and professional vendors to whom  
 13     disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be  
 14     Bound by Protective Order” (Exhibit A);

15                  (e)     the author of the document or the original source of the  
 16     information, including persons to whom the text of a document indicates that document was  
 17     transmitted; and

18                  (f)     witnesses (other than persons described above in paragraph 7.3(a)-  
 19     (f)) to whom disclosure is reasonably necessary for this litigation and who have signed the  
 20     “Agreement to Be Bound by Protective Order” (Exhibit A). Witnesses shall not be permitted to  
 21     retain copies of such information.

22                  7.4     Procedures for Approving Disclosure of “HIGHLY CONFIDENTIAL  
 23     ATTORNEYS’ EYES ONLY” Information or Items to “Experts”

24                  (a)     Unless otherwise ordered by the court or agreed in writing by the  
 25     Designating Party, a Party that seeks to disclose to an “Expert” (as defined in this Order) any  
 26     information or item that has been designated “HIGHLY CONFIDENTIAL - ATTORNEYS’  
 27     EYES ONLY” first must make a written request to the Designating Party that (1) identifies the  
 28     specific HIGHLY CONFIDENTIAL information that the Receiving Party seeks permission to

1 disclose to the Expert, (2) sets forth the full name of the Expert and the city and state of his or her  
2 primary residence, (3) attaches a copy of the Expert's current resume, (4) identifies the Expert's  
3 current employer(s), (5) identifies each person or entity from whom the Expert has received  
4 compensation for work in his or her areas of expertise or to whom the expert has provided  
5 professional services at any time during the preceding five years, and (6) identifies (by name and  
6 number of the case, filing date, and location of court) any litigation in connection with which the  
7 Expert has provided any professional services during the preceding five years. Such request shall  
8 be transmitted by facsimile and electronic means.

9 (b) A Party that makes a request and provides the information specified  
10 in the preceding paragraph may disclose the subject Protected Material to the identified Expert  
11 unless, within seven court days of delivering the request, the Party receives a written objection  
12 from the Designating Party. Any such objection must set forth in detail the grounds on which it is  
13 based.

14 (c) A Party that receives a timely written objection must meet and  
15 confer with the Designating Party directly (through voice to voice dialogue; other forms of  
16 communication are not sufficient) to try to resolve the matter by agreement. If no agreement is  
17 reached, the Party seeking to make the disclosure to the Expert may file a motion as provided in  
18 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) seeking  
19 permission from the court to do so. Any such motion must describe the circumstances with  
20 specificity, set forth in detail the reasons for which the disclosure to the Expert is reasonably  
21 necessary, assess the risk of harm that the disclosure would entail and suggest any additional  
22 means that might be used to reduce that risk. In addition, any such motion must be accompanied  
23 by a competent declaration in which the movant describes the parties' efforts to resolve the matter  
24 by agreement (i.e., the extent and the content of the meet and confer discussions) and sets forth  
25 the reasons advanced by the Designating Party for its refusal to approve the disclosure.

26 In any such proceeding the Party opposing disclosure to the Expert shall  
27 bear the burden of proving that the risk of harm that the disclosure would entail (under the  
28

1 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material to  
 2 its Expert.

3 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
 4 OTHER LITIGATION

5 If a Receiving Party is served with a subpoena or an order issued in other litigation that  
 6 would compel disclosure of any information or items designated in this action as  
 7 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY," the  
 8 Receiving Party must so notify the Designating Party, in writing, by facsimile or electronic  
 9 means, immediately and in no event more than three court days after receiving the subpoena or  
 10 order. Such notification must include a copy of the subpoena or court order. The Receiving Party  
 11 also must immediately inform in writing the person who caused the subpoena or order to issue in  
 12 the other litigation that some or all the material covered by the subpoena or order is the subject of  
 13 this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated  
 14 Protective Order promptly to the person in the other action that caused the subpoena or order to  
 15 issue. The purpose of imposing these duties is to alert the interested parties to the existence of  
 16 this Protective Order and to afford the Designating Party in this case an opportunity to try to  
 17 protect its confidentiality interests in the court from which the subpoena or order issued. The  
 18 Designating Party shall bear the burdens and the expenses of seeking protection in that court of its  
 19 confidential material- and nothing in these provisions should be construed as authorizing or  
 20 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

21 Notwithstanding the foregoing, to the extent that any portion of this litigation proceeds in  
 22 Canada, material produced in this action may be used in that action to the same extent, and  
 23 subject to the same protections, as set forth in this action pursuant to the terms of this Order, and  
 24 no separate notification between the Parties shall be required for such use.

25 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

26 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
 27 Material to any person or in any circumstance not authorized under this Stipulated Protective  
 28

1 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
2 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,  
3 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of  
4 this Order, and (d) request such person or persons to execute the "Acknowledgment and  
5 Agreement to Be Bound" that is attached hereto as Exhibit A. Such disclosure shall not constitute  
6 waiver of Protected Material status by the Designating Party.

7 10. FILING PROTECTED MATERIAL

8 Without written permission from the Designating Party or a court order secured after  
9 appropriate notice to all interested persons, a Party may not file in the public record in this action  
10 any Protected Material. A Party that seeks to file under seal any Protected Material must comply  
11 with Civil Local Rule 79-5.

12 11. FINAL DISPOSITION

13 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days  
14 after the final termination of this action, each Receiving Party must return all Protected Material  
15 to the Producing Party. As used in this subdivision, "all Protected Material" includes all copies,  
16 abstracts, compilations, summaries or any other form of reproducing or capturing any of the  
17 Protected Material. With permission in writing from the Designating Party, the Receiving Party  
18 may destroy some or all of the Protected Material instead of returning it. Whether the Protected  
19 Material is returned or destroyed, the Receiving Party must submit a written certification to the  
20 Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day  
21 deadline that identifies (by category, where appropriate) all the Protected Material that was  
22 returned or destroyed and that affirms that the Receiving Party has not retained any copies,  
23 abstracts, compilations, summaries or other forms of reproducing or capturing any of the  
24 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival  
25 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney  
26 work product, even if such materials contain Protected Material. Any such archival copies that  
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contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order. Similarly, no Party waives any form of protection, doctrine, or privilege (including but not limited to the work product doctrine) by virtue of compliance with the terms of this Order or designation of materials hereunder.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

O'MELVENY & MYERS LLP

DATED: September 14, 2005

/s/ Carla J. Christofferson

Carla J. Christofferson  
Attorneys for Plaintiff  
EXIGEN, LTD.

STEPTOE & JOHNSON LLP

DATED: September 13, 2005

/s/ Lawrence P. Riff

Lawrence P. Riff  
Jay E. Smith  
Attorneys for Defendant  
ALIAN INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 09/15/05



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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

O'MELVENY & MYERS LLP

DATED: \_\_\_\_\_

Carla J. Christofferson

Attorneys for Plaintiff  
EXIGEN, LTD.

STEPTOE & JOHNSON LLP

DATED: September 13, 2005

Lawrence P. Riff  
Jay E. Smith

Attorneys for Defendant  
ALIAN T INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: \_\_\_\_\_

Hon. Thelton E. Henderson

United States District Senior Judge

1 I, Dale M. Edmondson, am the ECF User whose ID and password are being used to file  
2 this Stipulated Protective Order. In compliance with General Order 45, X.B., I hereby attest that  
3 Carla J. Christofferson and Lawrence P. Riff have concurred in this filing.

4 O'MELVENY & MYERS LLP

5 DATED: September 14, 2005

/s/ Dale M. Edmondson

6 Dale M. Edmondson  
7 Attorneys for Plaintiff  
8 EXIGEN, LTD.  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_, of \_\_\_\_\_, declare under the laws of the United States [and/or Canada] that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on \_\_\_\_\_ in the case of Exigen, Ltd. v. Aliant Telecom, Inc. *et al.*, Case No. 04-1203 TEH. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State or Province where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]